IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTIETH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI JUSTICE C.V.RAMULU

WRIT PETITION No. 23974 of 1995

Between:

1. S. Sethu Rama Rao (died), S/o. late S.Narsing Rao,
R/o. H.No. 453/15, Victoriapet, Adoni-518 301,
Kurnool District, per LR

2. S.Guruprasad, S/o Late S.Sethu Ramarao,

32 years, R/o 3-5-760, Vittalwadi, Narayanaguda,

Hyderabad.

(Petitioner No.2 is brought on record as LR of

deceased petitioner as per Court Order

dated 20-12-2004 in W.P.M.P.No.1861/04)

..... PETITIONERS

AND

1 The Government of India, Ministry of Finance,

Department of Enforcement Affairs, Insurance Division,
Rep by its Secretary, New Delhi.
2 The Chairman and Managing Director,

The New India Assurance Company Ltd,

New India Assurance Building,
87, New Mahathma Gandhi Road, Fort, Bombay-400 001.
3 The General Manager, New India Assurance Company Ltd,

New India assurance Building,
87, Mahathma Gandhi Road, Fort, Bombay-400 001.

4 The Assistant General Manager,

New India Assurance Company Ltd, New India Assurance Building,
87, Mahathma Gandhi Road, Fort, Bombay-400 001.

5 Sri S.Balaraman, Enquiry Officer, Deputy Manager,

New India Assurance Company Ltd,
Unity Buildings, Bangalore-9.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an order or direction or writ under Article 226 of the Constitution of India, more particularly one in the nature of Writ of Mandamus:

i. declaring the Memorandum of Charges dated: 30-4-1992 and the findings of the Enquiry Officer dated: 24-6-1993 is illegal and arbitrary;

ii. ii) To declare that the punishment of compulsory retirement order issued by the 3rd respondent dated: 19-4-1994 as illegal and arbitrary and illegal;

iii. iii) To declare the proceedings of the Appellate Authority dated: 4-9-1995 as illegal, arbitrary and consequently direct the Respondents No.2 and 3 re-instate the petitioner into service with full salary and other attendant benefits, including the arrears of pay during the period of suspension;

OR alternatively direct the Respondents No.1 to 3 to treat the compulsory retirement of the petitioner as Voluntary Retirement for the purpose of all applications of General Insurance (Employees) Pension Schemes, 1995 to the petitioner herein from the date of compulsory retirement with all other attendant benefits attached to the same; and pass such other order or orders, as this Hon'ble Court may fit and proper in the circumstances of the case.

Counsel for the Petitioners: Mr. G.VIDYASAGAR

Counsel for the Respondents : Mr. V. SRINIVAS

The Court made the following :

ORAL ORDER:

This writ petition is filed being aggrieved by the order of the third respondent dated 19-4-1994, which was confirmed by the appellate authority – 4th respondent - by its order dated 4-9-1995, wherein the petitioner (since died) was made to retire compulsorily as a measure of punishment after conducting a detailed enquiry into the misconduct alleged against him.

It is alleged that the petitioner while working as a Divisional Manager of the respondent-New India Assurance Company Limited - at Kakinada committed certain

misconduct. By an Order dated 10-3-1992 of the 4th respondent he was placed under suspension. Thereafter, he was issued with a charge memo dated 30-4-1992. The sum and substance of the charge memo was that the petitioner had unduly influenced one Satti Reddy, Development Officer to issue fresh fire cover notes against six rice millers with the connivance of one Krishna Reddy of Andhra Bank. Petitioner submitted explanation to the charge sheet on 3-6-1992. Having not satisfied with the explanation, the authorities had conducted a detailed enquiry into the matter and a show cause notice was issued on 22-9-1993 to the petitioner along with the findings of the enquiry officer. After receiving explanation from the petitioner, the impugned order dated 19-4-1994 was passed retiring the petitioner from service compulsorily, since the charges were proved. Aggrieved by the same, the petitioner had filed an appeal unsuccessfully. Challenging the said orders, the present writ petition is filed.

During the pendency of the writ petition, the petitioner passed away and his legal representatives are brought on record as per the orders passed in W.P.M.P.No.1861 of 2004, dated 20-12-2004.

Heard both sides and perused the entire material on record including the explanation given by the petitioner to the show cause notice and the orders passed by the disciplinary and appellate authorities.

Admittedly, the petitioner was aged about 57 years as on the date of passing the order making him to retire from service compulsorily. In the explanation submitted by the petitioner, he himself stated that the Enquiry Officer relied upon hearsay evidence of Raghavendra Rao, M.,W.4 in the enquiry and the Enquiry Officer further taken into consideration the statement of one Subba Reddy as regards acceptance of money for which there was no charge. This itself would show that there was some evidence and it is not a case of no evidence at all. So far as proportionality of punishment is concerned, it is for the disciplinary authority to take appropriate decision in the matter. In the instant case, such a decision was taken by the disciplinary authority after considering the entire material placed before it. It is not for this Court to decide what was the appropriate punishment that the petitioner could have been imposed in the circumstances of the case on hand. As stated above, the petitioner was aged about 57 years at the time of passing the impugned order. In the meanwhile, the petitioner-employee also passed away. No case is made out to

interfere with the impugned order passed by the disciplinary authority as confirmed by the appellate authority. The writ petition is devoid of merits.

It is submitted that in pursuance of the interim orders passed earlier, the gratuity and other benefits were paid to the petitioner. However, the learned counsel for the petitioner states that the petitioner is also entitled for pension, since the pension scheme was introduced in the respondent-Insurance Company in the year 1993. In the circumstances, the respondents are directed to calculate all the retrial benefits including the pension, if the petitioner is otherwise eligible for the same, and pay them within a period of three month from the date of receipt of a copy of this order.

Accordingly, the Writ Petition is disposed of. No costs.

20-12-2004

prk

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ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Secretary, Government of India, Ministry of Finance,

Department of Enforcement Affairs, Insurance Division,
New Delhi.

2 The Chairman and Managing Director,

The New India Assurance Company Ltd,

New India Assurance Building,
87, New Mahathma Gandhi Road, Fort, Bombay-400 001.

3 The General Manager, New India Assurance Company Ltd,

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